STATE OF NEW YORK

10107

IN ASSEMBLY

May 3, 2024

Introduced by M. of A. KELLES -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to reimbursement rates of pharmacy benefit managers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (e) of subdivision 4 of section 280-a of the public health law, as added by chapter 828 of the laws of 2021, is amended and a new subdivision 4-a is added to read as follows:

(e) **(i)** if an appeal is denied, the pharmacy benefit manager shall identify the national drug code of a therapeutically equivalent drug, as determined by the federal Food and Drug Administration, that is available for purchase by pharmacies in this state from wholesalers registered pursuant to subdivision four of section sixty-eight hundred eight of the education law **that the pharmacist or pharmacy purchases the majority of prescription drugs for resale from** at a price which is equal to or less than the maximum allowable cost **or other reimbursement pricing methodology used by the pharmacy benefits manager to determine cost** for that drug as determined by the pharmacy benefit manager.

(ii) if the national drug code number provided by the pharmacy benefit manager is not available below the pharmacy acquisition cost from the pharmaceutical wholesaler from whom the pharmacy or pharmacist purchases the majority of prescription drugs for resale, then the pharmacy benefit manager shall adjust the maximum allowable cost or other pricing methodology used by the pharmacy benefits manager to determine cost above the challenging pharmacy's pharmacy acquisition cost and permit the pharmacy to reverse and rebill each claim affected by the inability to procure the drug at a cost that is equal to or less than the previously challenged maximum allowable cost.

4-a. Reimbursement. (a) A pharmacy benefit manager shall not reimburse a pharmacy or pharmacist in this state an amount less than the amount that the pharmacy benefit manager reimburses a pharmacy benefit manager affiliate for providing the same pharmacist services.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(b) The amount shall be calculated on a per unit basis based on the same generic product identified or generic code number.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.